“Step on a Crack, Break Your Mother’s Back”: Poor Moms, Myths of Authority, and Drug-Related Evictions from Public Housing

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A

Once upon a time, the old superstition “Step on a crack, break your mother’s back” turned many of my walks down city streets into a game. What else could cracks have referred to but the lines and crevices in the pavement? Of course, it did not matter, since little depended on it. I knew that my mama’s well-being did not rise or fall with my physical agility. It would have been crazy to think otherwise. Yet, when I remembered and the spirit moved me, I did try to avoid the cracks on the assumption that it couldn’t hurt to show a little extra concern and respect for mom, now and then. There were, of course, children who deliberately and defiantly walked on cracks as a way of defying fate.

Back in the early 1990’s, during the height of the crack epidemic, I asked my own practical mother why she thought the superstition came from and she replied, laughing at her mortality, that it probably referred to wooden floor boards that fly up unexpectedly when stepped on because they are not nailed down. In shabby dwellings a misstep might lead to serious injury. Viewed in this context, the superstition may have been an instructional ditty useful for teaching children how to move about the house. The significance of stepping lightly is indicated by the linkage between the failure to do so and harm to one’s mother. Thus, the same bit of folklore when applied to different material conditions generated different interpretations and different behavior. Yet, adherence to the dictates of the old superstition gave both my mother and me an opportunity to show a bit of dutiful regard for our mothers’ well-being. For both of us, the superstition was part of the bundle of “common beliefs, values,

7 William A. Schabas, Professor, University of Pennsylvania Law School; Visiting Professor, Columbia Law School.

The existence of this ditty among Black and white groups is documented in Newport News Pocket Folkbeliefs of the Southern Negro 43 (1925).

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traditions, and practices" that constituted and reflected the authority or social power of mothers in black culture.\footnote{7}

Today, the old superstition may have taken on a new meaning for children who contemplate possessing, using, or dealing drugs close to home when home is a public housing development or a publicly subsidized unit in a private development. As a component of the so-called "War on Drugs," mothers are being evicted from public housing because of the drug-related activities of their children whom they are expected to control, even if they are unaware of what their children are up to. To avoid eviction, mothers are turning their children out because the mothers have no alternative. In some cases, even ostracism is not sufficient to persuade public housing authorities to allow a mother to maintain some form of her remaining offspring. \textit{E.g.:} "Step on a crack, break your mother's back." This same goes for liquor, cocaine, and marijuana. The figurative has become literal. Superstition has given way to taboo, as a bit of folklore has moved from the sacred to the profane.

In the discussion that follows, I will consider the government's policy of no-fault evictions from public and publicly-supported housing as it relates to the authority of poor black and brown mothers with regard to their children. The punitive, hyper-rational, government-directed prohibition on drug-related activity by their children does not pass the organic power of the superstition "Step on a crack, break your mother's back." The law would be more effective if it attempted to capitalize or increase the authority of poor minority women insular as their children are concerned. To do that, the law would have to be most respectful of the women's attempts to deploy cultural and social mechanisms of control. Moreover, the law would have to provide the women with the material resources with which to pursue their vision of responsible motherhood in reality.

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To stem the tide of crime and to restore security and civility to life in public housing, Congress passed legislation requiring that every housing authority provide in its leases that any drug-related criminal activity, on or off its premises, engaged in by a tenant, any member of her or his household, a guest, or any other person under the tenant's control, shall be cause for eviction.\footnote{\textit{7}} In \textit{H.CO} v. \textit{Rockefeller}, the Supreme Court, by a vote of eight to zero,
held that this provision, "unambiguously requires lease terms that vest local public housing authorities with the discretion to evict tenants for the drug-related activity of household members and guests whether or not the tenant knew, or should have known, about the activity."4

Viewed most positively, the "one-strike," "zero tolerance," "no-fault" eviction policy is premised on the notion that public housing residents, no less than private housing residents, deserve a safe and secure place to live. Given the impact drugs can have on life in a public housing community in terms of heightened violence and destruction of the physical environment, it is considered justifiable to condition continued occupancy on the residents' noninvolvement with drugs. Responsibility is placed on the tenant unit to control and oversee its members and to expel anyone whose continued involvement with drugs jeopardizes the neighborhood's entitlement to shelter.6 However, the creation of fault-based defenses to evictions like lack of knowledge or the absence of real control on the ground that they "would thereby undercut the tenant's motivation to prevent criminal activity by household members." Moreover, if public housing authorities had the burden of proving knowledge and control, evictions would be "time-consuming, costly, and otherwise cumbersome."7 Residents who may have information regarding the criminal behavior of their fellow tenants, for example, may be reluctant to complain to the police or housing authorities or to testify at hearings because of their fear of reprisals. The policy thus gives the other tenants maximum protection.

However legitimate its premises, the eviction campaign as implemented might be unity styled "The War on Drugs" takes out "Momniet's Maat-schaps."8 Chief among those adversely impacted by the campaign have been poor single minority female heads of households, often senior citizens, who are living with their sexual or adopted offspring, one or more of whom, usually an adolescent or young adult, abuse alcohol, drugs, or possesses drugs. The mothers and grandmothers (though sometimes it is a

sister, aunt, cousin, wife, or girlfriend, are in general innocent, often even ignorant, of any criminal activity, but are nonetheless held responsible for the conduct of the other occupants of their units.

The person being controlled here, of course, is not the child, but the parent. The parent becomes the guarantor of the good behavior of her family members and guests. The policy depends on her economic rationality as head of the household and provides incentives for her to kick the offending family member out of the unit. HUD regulations provide that a housing authority may allow a family to remain in public housing if the offending family member is excluded.9 The state will furthermore support the tenant’s effort to exclude the offender. “If a tenant cannot control criminal activity by a household member, the tenant can request that the [public housing authority] remove the person from the lease as an unauthorized unit occupant, and may seek to have access by that person to the unit.”10 Housing Authority of Northwcnt v. Lee,11 a get-richer case, illustrates how the incentive structure is supposed to work. Barbara Lee did not get evicted as a result of drug dealing by her twenty-year-old son Marcel because she went to great lengths to expel him from her household. After her son’s second arrest for drug dealing, Barbara Lee told him that he would have to reside elsewhere because she had learned that public housing tenants who consent to the presence of persons who engage in drug dealing on housing authority property face eviction.12 He moved out but did not stay away from the development, where Ms. Lee lived.

His mother, repeatedly stressed to him that he could not return to Colonial Village, even when she saw him with other youths and even congregating in Colonial Village. She was concerned that her younger children have a “roof over their heads” as he had had when he was their ages. She also testified to pushing him out the door hourly when he would return and get “silly” about not returning home.13

9. Public Housing Lease and Eviction Procedures, supra note 6, at 31578 (24 C.F.R. § 503.64(d)(1)). Prior to Fletcher, tenants in New York City had successfully defended against evictions for violating this at the state level, but proceedings for housing family members had been excluded from the household. See McQueen v. New York City Hous. Auth., 358 N.Y.S.2d 1022 (Sup. Ct. 1974) (holding that exclusion was not supported given evidence the inquired about did not reside in suit and was not returned upon release); Costanzo v. Papadicas, 677 N.Y.S.2d 468 (App. Div. 1998) (ordering denovo hearing as possibly erroneous denial of nonresidency); Brown v. Poppe, 369 N.Y.S.2d 315, 327 (App. Div. 1974) (finding that tenant’s unwillingness to rehouse her son due to his presence of illegal drugs in her apartment was not based on an authorization statement). See also Turner v. Chicago Hous. Auth., 57 F.3d 594, 596-98 (7th Cir. 1995) (holding that state term as interpreted by court was limited to illegal activity that is based on nonviolent criminal activity that is found on housing authority property).
10. Public Housing Lease and Eviction Procedures, supra note 6, at 31562.
12. Id. at 31562.
13. Id.
After Marcel tried to break into the apartment through a window when he thought no one was home, a bar was placed across it. When he got into an altercation with Ms. Lee's fiancé, a restraining order was obtained against him. Barbara Lee even tried to get Marcel's name removed from the lease, but was unable to do so because Marcel went to live with relatives and Ms. Lee therefore could not obtain a letter from a landlord attesting to the fact that Marcel resided elsewhere. Marcel Lee was eventually arrested for selling drugs on the street where Barbara Lee lived and the Housing Authority instituted summary eviction proceedings against her. Based on all the evidence, the court found that the Authority did not prove that Barbara Lee "consented to the presence of her son at the premises after she knew that he was selling illegal drugs." Barbara Lee was vigilant to the point of barring her recalcitrant child from the matrimonial fold. Her efforts to force his way back into the family home availed him nothing; his mother barred his access and expelled upon the law to restrain was remedy. Marcel Lee became an outcast, a pariah, a person so dangerous to live with that even his own mother had to avoid him. Marcel Lee achieved this status because he broke what is essentially a taboo, one that elevates drug dealing to the level of a primal sin, the rejection of which imposes a curse on one's mother and family. Of course, the taboo is the product of the state's insistence and it is bucked up by the state's power. In addition, it is a taboo for which there is no route of purification or decriminalization by which a drug-dealing offender can be restored to good standing in her or his family or community (though for the drug-using offender there is the possibility of rehabilitation via drug treatment).

Barbara Lee was not evicted, though under the Rucker decision she could have been, because the eviction policy does not depend upon proof of guilt. It is disturbing to think that after going to such lengths, a mother like Barbara Lee might still be evicted from her home.

In the view of many public housing advocates and tenants, the eviction policy upheld in Rucker is "rabid, racist, and gravely unfair"; furthermore it targets the poor for a punishment (i.e., eviction) that rarely befalls more

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14. M.
15. M.
17. M. at *.
18. M. at *.
19. HUD regulations state that "(i) PHA may evict a family member who has engaged in the illegal use of drugs or present evidence of successful completion of a treatment program as a condition for living allowed to reside in a unit." 42 Fed. Reg. 51578 (21 C.F.R § 866.44)).
affluent persons with drug-involved family members and acquaintances. Although numerous objections have been raised against the eviction policy, the most vociferous complaints are lodged against its no-fault aspect. The strong media and arrest for drug dealing alerted her to construct that could have gotten the entire family evicted. Not all parents or grandparents are aware of or well informed of the criminal behavior of their family members. The tenant responsibility clause allows public housing authorities to evict tenants who do not know about the drug-related crimes behavior of their co-tenants, family members, and guests.

Ignorant and innocent mothers and grandmothers are among the most sympathetic potential evictees of the government’s zero tolerance policy; it is on their behalf that the strongest claims of unfairness are mounted. Three of the four YUP v. Ranker plaintiffs fit this profile, for example. Two were grandmothers (aged 71 and 63) and long-time public housing residents (of 25 and 30 years, respectively) whose grandsons were caught smoking marijuana in the parking lot of their complexes. Mrs. Ranker herself was 65 years old and had lived in public housing for 13 years. Her mentally disabled daughter, who resided with her, was found in possession of cocaine and drug paraphernalia three blocks from the family’s home. All three women testified that they were ignorant of their children’s drug-related activities. Indeed, after the
Supreme Court ruled in the defendant's favor, the eviction orders against the women were canceled and all three were allowed to stay in their homes.21 In another similar case, a mother, age 83 and suffering from hypertension and gout, and a father, age 85 and suffering from emphysema, received an eviction notice after their 5-year-old son was arrested for selling marijuana on a corner near the development where his parents had lived roughly since the time of his birth. The police also found two bags of drugs in their home. The son was tried on an unrelated charge and it was furthermore understood that he would not be returning to his parents' home upon his release. The couple tried to locate comparable housing for $750.00 a month.22 After complaints and a public demonstration, the board of the housing authority voted unanimously to reverse the order of eviction because it was convinced that the elderly tenants knew nothing about their son's drug-related behavior.23 The seeming unfairness of such truly non-fault eviction actions likely prompted the Supreme Court in HUL v. Rucker to emphasize that evictions are discretionary, not mandatory. The law

entitles the decision to evict to local public housing authorities, who are in the best position to take account of, among other things, the degree to which the housing project suffers from "rampant drug-related or violent crime," 42 U.S.C. § 1401(2) (1994 ed. and Supp. V.), "the seriousness of the offending action," 6 Fed.Reg., at 28803, and "the extent to which the household has, ... taken all reasonable steps to prevent or mitigate the offending action."24

Subsequent to the decision, the Secretary of Housing and Urban Development urged public housing directors to employ evictions as the last resort and to apply the policy "responsibly, not rigidly."25 An assistant secretary backed up this message in a subsequent letter in which he reminded directors to consider "the seriousness of the violation, the effect that eviction of the entire household would have on household members not involved in the criminal

21. Eviction Contended for Drug Use Held for Non, 23 SAN DIEGO UNION TRIBUNE, Apr. 6, 1992, at 22. The plaintiff Rucker plaintiff, Megan Walker, was 75 years old at the time the eviction case was considered by the court, disabled and weakly suffering without an in-home caregiver. He lived in a public housing development for seniors. HUL v. Rucker, 998 WL, 32603, at *2. His caregiver was a crack user. Drugs and drug paraphernalia were found in his apartment three times and there were five times he was issued a public violation notice. After the third time, the eviction petition was started. It was on this point that Walker filed his complaint. HUL v. Rucker, 289 F.Supp. at 604. The news article indicates that this move apparently came after Walker was serving a first eviction.
activity, and the willingness of the head of household to remove the wrongdoing household member as a condition of continued occupancy. Because it does not explicitly make foreseeable or knowledge a prerequisite to eviction, of a tenant for the actions of another household member or guest and leaves such matters to the discretion of public housing authorities, the law appears unjust on its face and should be amended. In its present form, it has the potential to make innocent tenants fearful and anxious, for, infirm and elderly residents, the mere threat of eviction can be life-threatening. The effort to amend the no-fault eviction policy so as to make it more fair to truly ignorant and unsuspecting mothers and grandmothers should not be the only reforms contemplated, however.

To a certain extent, unsuspecting and elderly tenants like the plaintiffs in Becker are sympathetic because they are the resentment victims of their devious and cunning relatives and calloused and insensitive bureaucrats.29 The action of the federal forfeiture action brought against Clara Smith illustrates this amply.30 The subject of the forfeiture action was Smith's leasehold interest in a small three-bedroom, east-bath apartment in the Marble Hill housing development in the Williamsburg section of Brooklyn.31 The real parties in interest (people with a stake in the outcome) were the eighteen residents of the unit: Clara Smith, two of her daughters, thirteen of her grandchildren, and two of her great-grandchildren.32

29. Letter from Michael M. Liss, Assistant Secretary for Public and Indian Housing, Dept of Housing and Urban Development to Sen. J.B. Speed, May 2, 2002.
30. Lloyd's Realty Corp. v. Ahlom, 552 N.Y.S.2d 106 (N.Y. Com. Pr. 1990), is a similar approach to the plight of an elderly tenant. The defendant was Rosario Ahlom, a thirty-nine-year-old widow and fifteen-year tenant, who lived in the subject unit with one of her adult daughters and one of her friends. Id. at 107. After one of her daughters and the friend were arrested in the apartment following an alleged robbery, the landlord, Lloyd's Realty Corp., obtained a temporary restraining order, which Lloyd's moved to make permanent. Id. at 108-09. In the meantime, the tenants moved out. Id. at 109. A few days later, Rosario's mother, Mrs. Ahlom, moved into the apartment. Id. at 110. The court noted that, even though Mrs. Ahlom was not benefited by the arrest of her daughter, her presence in the apartment did not make the plaintiff's interest more valuable. Id. at 112. The landlord, Lloyd's, did not appeal and so the court, in the absence of a leasehold interest, did not hear any argument. Id. at 112.
32. Id. at 120-21.
The torture action was initiated after Mrs. Smith's thirteen-year-old granddaughter told two vials of crack to an undercover police officer who knocked on the door of the apartment.4 A subsequent search of the apartment produced crack paraphernalia and fifty-five vials of crack in a yellow purse. This evidence suggested that the apartment was used to store drugs and possibly to package them for sale.5 The Smith horse had been targeted by the authorities because of anonymouse complaints that drug sales were occurring there. Mrs. Smith attributed the charges to the nonprofit charitable grandparents of two of her daughter Juanita's children, who also lived in the development. The Social Security benefits to which the children were entitled may have figured significantly in generating a battle over their custody. This possibility prompted the following comment from the court: "In straightforward and desperate circumstances disputes over any source of income may result in what would seem to the outsider, a desperate sad. Compassion and graciosness are not attributes easily afforded where living conditions are barely above those necessary for survival."

Despite the tangible evidence and the granddaughter's guilty plea,6 Mrs. Smith was able to avoid forfeiture by proving that she had no knowledge of the drug activity.7 The court precluded Mrs. Smith as a woman "almost overwhelmed by the problems of her household."8 The burden of cooking, cleaning, and managing a large family kept her virtually homebound. She usually left the apartment to do the food shopping for the entire family when the food stamps arrived. The family's quarters were very cramped and she had worked her daughter Juanita's family out of the apartment. When they wound up in intolerable shelter conditions, she compassionately allowed them to

**References**
4. Id at 202.
5. Id at 204.
7. Following the arrest, Mrs. Smith, her two granddaughters, and Cherrise were arrested and convicted of drug charges. Id at 204. The charges against Mrs. Smith were dismissed. Her two daughters were convicted of possession of cocaine and found on probation, the granddaughter plus guilty to selling drugs in the apartment building and was sentenced to five years probation. Cherrise's defense, like that of her mother and aunt, was punishable by more than one year's imprisonment and therefore qualified one of the requisites of the sentencing law. The court concluded that Cherrise's admission and plea, as well as the large number of crack vials and other drug paraphernalia in the apartment, most likely proved closer to believe than the apartment was used to store and, because of crack but possibility of package in... This circumstance alone is sufficient to establish probable cause necessary to arrest defendant. Id at 203.
return. Otherwise occupied, Mrs. Smith might not have been aware of any illegal activity. The apartment was not a "creek house" where widespread, notorious drug activity occurred.53

Mrs. Smith... firmly opposed drug activities by her extended family. She did not tolerate such activities in the apartment since the well-being of the other family members would be jeopardized... When informed by the Housing Authority of anonymous charges of drug sales from her apartment, she confronted the members of her household and satisfied herself that the allegations were not true. As a precaution, she prohibited members of the household from having guests while she was away. She also insisted that only members of the family answer the door.54

Said the court, "In view of her expressed antipathy to drugs, it would be reasonable to assume that her children and grandchildren would try to keep Mrs. Smith in the dark about their proscribed activities. We take judicial notice of the widespread lack of knowledge of children's [sic] drug activities in all kinds of families."55 The court was aware that a ruling in the government's favor would likely result in the homelessness of the tenants, and deprive the minor children of "whatever stability" there was in their lives.56 It concluded that Mrs. Smith and the several generations of children "who look to her for shelter as the family's matriarch, may not be dispossessed because one of them has sold drugs from their apartment.57

Grandmothers like Mrs. Smith may be the bedrock of the traditional black community, but they are corruptible too. Consider the contemporary valorization of the grandmothers who are taking care of the children of their crack-addicted offspring.58 The grandmothers have little choice but to accept the responsibility and perhaps little alternative but to accept their portrayal as heroes of the War on Drugs. In the process, of course, they also bear and solidify the scapegoating of their children.

40. Id at 1525.
41. Id at 1833.
42. Id at 1185.
43. Id at 1193.
44. United States v. 121 Naomi Ave., 769 F. Supp. at 1019.
45. Id.
While the victimization and suffering endured by women like Mrs. Smith more than supports their entitlement to authority among blacks, the compassion that is generated among others has limited political potency. Society's especial admiration of the courage of blacks who endure economic hardship with fortitude and virtue is but a manifestation of the conceit that minority people are the objects, and not the subjects, of the world's ills. It has wrought, even inadvertently as its unwilling is concerned, a too much sentimentalized high road taken by some members of a community can be a curse for the rest who are grappling with oppression. It gets in the way of a rational assessment of the material truth and the effort to alter the material terrain.

"Minority people do more than despair; they both resist oppression and refuse to let their struggles consume their entire lives." They grapple with the dangers and disasters drugs cause in ways the dominant forces may not understand or respect.

Barbara Lee, Clara Smith, and Pearline Rucker do not exhaust the prototypes of poor minority mothers struggling with children caught in the trap of the drug trade. There are other tenants, other mothers, who are aware of their children's drug-related activities, yet they use the resources available to them in the attempt to save their loved ones from ruin. Under the "auto-tolerance," "veto strike and you're out," no-fault eviction policy, they are being made to live according to a state-imposed rationality that threatens their maternal hopes and dreams, as well as the sources of their maternal authority. At the same time, they are the victims of the contemporary tendency to address the causes and consequences of crime and violence purely in terms of sentiment, illusions, and ideology. This tendency justifies unusually harsh and punitive responses. These imprints would benefit from the inclusion in the law of a fault requirement that takes into account their best efforts to mitigate the harm to their neighbors while trying to salvage their children's lives.

D.

Like middle-class mothers whose children become involved with drugs, poor women who live in public or publicly-supported housing seek to use the property to which they have access for the benefit of their children. Take the case of Mary Harris. Mary Harris was almost evicted from public housing because she "allowed" her daughter, Mary Harris, Jr., first to sell drugs across the street from the apartment and then to return to the unit when she was released on parole.

The description of Mary, Jr.'s occupancy of the apartment reflects the unsanitary and disorganized lifestyle of a young woman caught up in crack drug culture. According to Mrs. Harris and two of her other daughters, Mary, Jr. moved out of the apartment after her mother refused to allow Mary, Jr.'s boyfriend, Edward, to stay overnight. "Although there was ample evidence that Mary, Jr. moved from place to place, there seem to have been no times when she was not in contact with various members of her family nor when she did not return to Rooster Court as her home base." 44 Mary, Jr. remained listed as a tenant of the apartment, though her mother testified that she attempted to have Mary, Jr.'s name removed from the lease. During this period, Mary, Jr. was also arrested for possession of narcotics. Mrs. Harris learned of this arrest from one of her daughters who picked up the information on the grapevine. When questioned by her mother, Mary, Jr. denied that she used drugs.

Mary Harris, Jr. was arrested for selling drugs at a public housing address across the street from her mother's apartment. 45 Mary, Jr. pled guilty and was given a three-year sentence. When she was paroled in June of that same year and placed on Supervised Home Release, Mary Harris agreed to act as her sponsor. 46 Mary, Jr. refused to comply with the terms of her parole, however, and was reincarcerated. She was again released on parole the following June and again failed to obey her parole officer's instructions. 47 When he went to visit the apartment, Mary Harris told him that "Mary, Jr. was 'in and out' and did not always stay at Rooster Court." Mary, Jr. was subsequently returned to prison.

The Housing Authority initiated eviction proceedings based on Mary, Jr.'s arrest and conviction. 48 According to the Authority's reading of the statutes that were relevant at the time, using the premises for the sale of illegal drugs or allowing persons or the premises to be used to sell illegal drugs constituted a serious nuisance. If the housing authority established the existence of a serious nuisance, the tenant could evict herself or himself by proving that the tenant had no knowledge of the third party's alleged conduct.

The trial court concluded that Mary Harris did not satisfy this burden. The court concluded that she "did not actively seek out facts that would have given her a realistic picture of her daughter's activities. She contrasted herself with her daughter's denial of drug use." 49 Furthermore, she allowed Mary, Jr. to return to the apartment after her first parole. Her claim that she did not know that sponsorship meant that she was providing her daughter with a home was dismissed by the court as the product of a deliberate failure to learn the

44 Id. at *2.
45 Id. at *2.
46 Id. at *2.
47 Id. at *3.
48 Id. at *2.
49 Harris v. Rooster Housing Authority, 995 WL 270885 at *1.
50 Id. at *3.
conditions of Mary, Jr.,’s parole. Although Mrs. Harris denied that Mary, Jr., lived in the unit, Mrs. Harris allowed the authorities to believe that it was an appropriate place to contact her daughter. The court said that Mrs. Harris “herself testified that, if Mary, Jr. would live up to her standards, she could return to live with her. ‘What mother would tell her child she was not welcome?’ she asked.” The court responded as follows:

There is no doubt that Mrs. Harris sought to meet her daughter from DRUGS. None of her other children were involved with DRUGS and she was a good tenant of the Housing Authority. However, by not following through on removing Mary, Jr., from the last and by pressuring her to return to Rondner Court as well, so long as Edward did not stay overnight, she “failed to require” Mary, Jr. “to conduct herself in a manner that would not constitute a serious NUISANCE.” It was the availability of the Rondner Court apartment that drew Mary, Jr., to Rondner Court again and again.

The case was reversed on appeal based on a finding that the law did not make the failure to control the conduct of others a serious nuisance and therefore Mrs. Harris was not guilty of conduct that would justify summary eviction. The law at issue in Arizona, of course, fails to provide such a loophole. Other mothers have defied the escalating threat of the federal eviction campaign and tried to keep their families intact. A New York Times article described a mother who lived in the Harry Jackson House in the Bronx and “fought” for her 21-year-old son:

After he was arrested for possessing several vials of crack, she was ordered to vacate the apartment unless she agreed to exclude him. She wrote to try to keep him off the streets that she fears will swallow him whole. “They’re not giving him a chance to straighten out his life,” she said. “They’re pushing him right back into trouble, right?”

Strangely, Rosa Velez’s standard used to evict her after two of her children were arrested for selling drugs in and in front of the building and she allowed

59. A young mother faces eviction after her 12-year-old son was caught selling drugs at a drug store. Although the son no longer resides in the unit and his mother had taken his keys, he was also in the unit because he mother left it open for one of her younger children to store while she was at work or picking up the baby of the family. The mother was guilty of the son’s criminal behavior. He sold his apartment as a private party and violated his parole by using marijuana. The mother had seen him give his mother the police who did not attend the unplanned drug program. Unfortunately, she had written to him off for the last. As time the article was written, her son was serving a 10-year home jury sentence in her native and using the home to search for a new home for the family.

the younger of the two, a seventeen-year-old son, to return to her apartment after his incarceration.69 Ms. Valcarcel was described as a senior citizen who resided with seven of her grandchildren.60 In explaining her behavior, she testified, "I couldn’t just let him go into the street just like that."61 The trial court concluded that she was an objectionable tenant because she condoned her children’s illegal activity on the rental premises and harbored them after becoming aware of their criminality.62 This decision was reversed on appeal, primarily because the children who had engaged in criminal behavior did not reside in the apartment at the time of trial.63

The federal eviction campaign is an assault on the beliefs of women like Mary Harris and Rosa Valcarcel regarding the responsibilities of mothers to their children. The campaign aims to control the behavior of the stereotypical welfare mother who is full of excuses for her progeny and always ready to overlook their shortcomings where drugs are concerned, out of an abundance of misguided maternalism. Consider how the trial court gently chided Mrs. Harris for requiring that Mary, Jr. confine to strict, traditional sexual mores as a condition to staying in her home, while failing to impose such prerequisites regarding drugs. To compensate for the woman's indulgence and forbearance, the state has created a taboo that is meant to be more powerful than any the woman themselves would create. In conditioning the entitlement to public housing upon the expulsion of the drug offender, the state as white patriarch is forcing the inflexion of masculine values into the governance of poor minority female-headed families. Just as in slave times when commercial transactions separated brothers from their children, here too "kinship" loses meaning since it is subject to termination in the name of property relations.64

The threat of the eviction of one's mother from her home may be enough to dissuade some residents from selling or doing drugs or housing authority property. The rights of black children, especially boys, have for their mothers and grandmothers is legendary. Black mothers, for their part, are said to go to great lengths to keep their families together and to shield their offspring from the harsh effect of white destination.65 Cultural norms suggest that mothers are supposed to have sufficient social or moral authority with which to deter criminal behavior by their children. Some do doubt it; unfortunately, many do not.

61. Id., 579 N.Y.S. 2d at 711.
62. Id. at 44.
Authority notwithstanding, poor parents employ more social or moral force to control their children's behavior. Middle-class parents have the money to back up their moral guidance with material bribes of consumer goods and allowances, expenditures for direct oversight, opportunities for education and personal enrichment, and medical insurance for drug rehabilitation and psychological counseling. Not so poor families. Unfortunately, the authority of poor mothers may not be sufficiently underwritten with material capital to achieve compliance with their requests regarding drug-related behavior. Thus, constrained material circumstances, the bundle of values and mores by which poor minority women live out the mother-child relationship may have more aspirational than operational importance.

The dominant culture has assigned matriarchal significance to the cultural norms and behavior of poor black mothers especially,66 even though these women cannot really be matriarchs because they lack the political, social, and economic power that true matriarchs possess.67 Beyond focusing on getting their children into drug rehabilitation and ensuring they live drug-free lives, it is not clear what mothers are supposed to do for grown or near-grown children caught in the drug culture. Denying their children, money for necessities (which they may otherwise procure through more dangerous means), reporting them to the authorities (particularly police, parole or probation officers), turning them away from home as they struggle to stay clean, or manifesting other forms of "tough love" do not come easily to everyone.68 One public housing resident and mother of four, when asked to comment on the Rucker ruling, "imagined that it would be hard to throw your own child out of the house when they have nowhere else to go."69 Worn poor black mothers act on such emotions like other mothers; they are deemed to be acting like matriarchs and criticized or mocked for it.

E.

The interests of the mothers and their children are not the only ones at stake with regard to drug-related evictions from public housing. The concerns of other tenants must be weighed in the balance. Their sentiments regarding drugs, crime, and violence bear closer analysis. It is important to understand how they believe that the tension between individual irresponsibility and

66 SPITZER, supra note 64, at 380.
69 See Amy Wolf, State-EPA Housing Tenants Appeal Ruling on Drug-related Eviction, HAYDENS ALSPORTS, OP. 2, 2002, at 1B.
structural oppression should be resolved in the assignment of blame for drug-related crime. 79

These are enormous numbers of poor minority people trapped in desperate economic circumstances who do not resort to criminal behavior and violence. They reject the notion that they are merely pawns of the system, incapable of making choices and rising above their dire strain. Personal responsibility is a life and death proposition for them. They get no comfort from researchers that the victim should not be blamed because they are victims too.

The everyday ethics and jurisprudence of black and brown urban life give rise to shared understandings of the line between conduct that is properly attributable to the lack of moral fiber of the perpetrator and conduct that is attributable to "the system" or "the white man." The line is drawn as a practical matter in the course of daily existence. The alternatives to crime and violence preferred by neighbors who share communal space with lawbreakers need to be ignored they themselves pursue. The options are experienced, not merely hypothesized. They are the strategies that families employ to protect their own children from harm or to keep them from getting into trouble.

Many public housing residents are disturbed by the federal eviction campaign because it has consumed the energy of residents who are really innocent. 72 To them, the federal government's eviction campaign would be farer if it did not extend to tenants who make reasonable efforts to control the criminal activity of other householders. In the view of some tenants, housing authorities are not doing enough to combat drug dealing directly. Evictions are being used to compensate for the ineffectiveness of the criminal justice system.


72. In commenting on HCD's amended lease and grievance procedure regulations, legal aid and tenants organizations contended that "the tenant should not be required to answer for the misconduct of the household members, or should have only a limited responsibility to prevent criminal behavior by members of the household." 56 Fed. Reg. at 1-1066. Instead of a strict liability or grossly-sustained standard, the committee maintained that "the tenant should not be held responsible if the criminal activity is beyond the tenant's control if the tenant did not participate, give consent or approve the criminal activity, or if the tenant has done everything reasonable to control the criminal activity." Id. One legal scholar has proposed that evictions should be allowed only if the tenant were aware of the drug-related activity and made efforts to prevent the drug activity or if the property is efforts articulate the offender. See supra note 5, at 134. See also Moors, supra note 22, at 1520-1530 (arguing that tenant reports that a drug dealer resides at the housing should have a defense when they have done all they could do to reasonably prevent criminal behavior).

On the other hand, tenants living in public housing in Greenwich, Connecticut objected to the Housing Authority's arbitrary policy of initiating eviction cases upon proof of good faith. The tenants presented that misconduct with two convictions for possession he barred from returning to public housing. Donna A. Johnson, Drugs and Public Housing: A Connecticut Case Study, 24 Conn. Bar. J. 444,453 n.1 (1990).

72. HUD regulations already provide that in the context of evictions for criminal activity, public housing authorities have discretion to consider "all the circumstances, including the environment of the action, the extent of the participation of family members, and the effect that the eviction would have on family members not involved in the proscribed actions." 56 Fed. Reg. at 51,067.
and to show that the housing authorities are "tough" on drug dealers by targeting the most vulnerable people in the community.

The no-fault eviction policy underestimated the importance of community-generated, non-institutional, social sources of control like mothers' authority. A new taboo against dealing drugs, a real metamorphosis of "Step on a crack, break your mother's back." would be much more effective if it had a genuine social or organic basis, i.e., if it originated in and resonated throughout the everyday lives of children, and was backed up, not by punitive measures imposed by the state, but by the social control mechanisms generated by the families from which they come and the communities in which they reside. To restore mothers' authority, power must be restored to the figurative: the ability to speak of complex matters on more than one level at a time. The collective imagination must be empowered in such a way that poor minority women control the primary, secondary, and even tertiary meanings of their ways of life. That will only happen when they can view themselves as being at the center of their own universes, capable of manipulating their environments and that of elites, too. It goes without saying that the power of poor minority women to name their own reality is inconsistent with elites touting the benefits of individual responsibility and telling them what their problems are, especially given the elites' tendency to label such women their own worst enemies. Since elites do not object to being criticized as long as the criticism confirms their omnipotence, they must be "de-centered," moved out of the spotlight, and denied their ultimate control over the women's affairs. The women must be able to teach their offspring that oppression compounds itself by causing the oppressed to turn on each other. Poor black and Latino mothers should enable their children to recognize their own complicity in the societal indifference to the conditions that provoke a resort to crime and violence—and then empower them to combat that indifference. Of course, this cannot be done without material resources that can be deployed locally and that are subject to local control.